[English]

MR. DEPUTY-SPEAKER : That matter has ended now.

(Interruptions)

[Translation]

SHRI GIRDHARI LAL BHARGAVA (Jaipur) : Mr. Deputy Speaker, Sir...*(Interruptions)* My query has not been answered and if it is not possible I would like to go home.

MR. DEPUTY SPEAKER : I will find out and inform you in a shortwhile.

SHRI GIRDHARI LAL BHARGAVA : Please find Out.

14.25 hrs.

STATUTORY RESOLUTION RE: DISAPPROVAL OF THE BUILDING AND OTHER CONSTRUCTION WORKERS THIRD ORDINANCE, 1996

BUILDING AND OTHER CONSTRUCTION WORKERS BILL

STATUTORY RESOLUTION RE: BUILDING AND OTHER CONSTRUCTION WORKERS' WELFARE CESS THIRD ORDINANCE, 1996

AND

BUILDING AND OTHER CONSTRUCTION WORKERS' WELFARE CESS BILL — Contd.

[English]

MR. DEPUTY-SPEAKER : Shri Palanimanickam please.

SHRI S.S. PALANIMANICKAM (Thanjavur) :

Hon'ble Deputy Speaker Sir,

I welcome the Bill that has been introduced in this House to give protection through legislation to the construction workers in the unorganised sector. This is intended to guarantee some protection in their service conditions through certain provisions of the Act we seek to enact now. I wholeheartedly support this Bill. I am happy to see the introduction of "The building and other construction workers (Regulation of Employment and Conditions of Services) Bill 1996" Clubbed with another Bill "The Building and other construction workers welfare cess Bill 1996". Though they may get help through certain provisions in the already existing centrally legislated Laws, it has been thought fit to go in for an exclusive legislation. I congratulate the Government on this count. The need to enact an exclusive Act to benefit the construction workers has been understood at last. The Government that seeks to enact a law for this purpose is expected to know all the problem such of those workers face. The construction workers form the second largest group among the workers found in the unorganised sector. I think the Government has fully understood their plight, that is why the Bill is in the process of being passed now after it has come in to vogue through three consecutive ordinances. Hence I appreciate the Government and welcome again the introduction of this Bill now.

United Front Government that has been formed by the coming together of thirteen parties has given to itself a common minimum programme as its guiding policy through its steering committee. What has that programme got to say about the workers in the unorganised sector. It promises to give them a better deal. it says that "some laws have been made in respect of labour in the unorganised sector. These lands will be strengthended and where necessary, new law will be made to protect the interest for such labour, particularly in the construction industry". With that spirit of comraderie and responsibility, I would like to raise certain questions. We are enacting this law after 50 years of independence as a comprehensive Act. Some seven years back the same Bill was introduced in Rajya Sabha. But it was withdrawn later as per the recommendations of the Petitions Committee of Lok Sabha. The Committee recommended that a fresh Bill be introduced so as to cater to long felt demands of hitherto neglected segment of the working class i.e the construction workers. Now it is necessary to go into the question whether the recommendations of a Committee of this House have been heeded or not. While introducing this Bill, Hon'ble Labour Minister has stated in his statement laid on the table of this House that the Bill was withdrawn in 1989 to bring-forth a fresh legislation incorporating the suggestions and the scheme contained in the Bill proposed by the National Compaign Committee. He had pointed out the role played by the National Compaign Committee which had interacted with the representatives of both the construction workers and the Government. The National Compaign Committee under the Chairmanship of Justice Mr. V.R. Krishna Iyer strived to bring to light the problems faced by about 85 lacs of construction workers throughout the country. Now we must ask ourselves whether that committee is realy happy with the form of the Bill that has been introduced now. Are they really satisfied with the proposed legislation? What was the recommendation made by the Petitions Committee of this House? Is it not that the committee reiterated that "it is for the Government to ensure that the legislation which is finally created encompasses all the features to extend practicable". I would like to know whether this Government has accepted that recommendations. If not, the Government should explain why it could not include all the features

* Translation of the Speech originally delivered in Tamil.

found in the Bill prepared by the National Compaign Committee. So many Union Labour Ministers have had talks with the representatives of the construction workers about this Bill. Shri P.A. Sangma who had discussed with the workers about this Bill is now the Hon'ble Speaker of this House. We have Shri Ram Vilas Paswan and Shri G. Venktaswamy the erstwhile Labour Minister who have held talks with the construction workers. They are Members of this House now. Shri M. Arunachalam who was Minister in the previous Government which had introduced this Bill earlier is our Labour Minister now. You have preferred to pass this Bill now. I would like to know from you whether you found out from the representatives of the construction workers that this Bill satisfies them or not. The Government must ensure that the workers concerned are really satisfied with this Bill. If not I would leave it to the Government to consider bringing in a comprehensive legislation incorporating all the suggestions from the construction workers's forums. It is said both inside the House and outside also as a criticism that the old Bill introduced in 1988 is being introduced again in the same form without undergoing any change. I would request Hon'ble Labour Minister to explain about the veracity of these comments against the Bill. The Act that would provide a social security to construction workers should empower the State Governments also to exercise the authority provided for in the Bill. I would expect the Minister to explain, how the Union Government intends to Share Power with the States ensuring the benefits of this Bill meant for the construction workers. The Minister has stated that the delegation of such legislative power is of a normal character and are matters of procedure and it would be very dificult to provide for them in the Bill itself

We must consider the pitiable conditions in which the construction workers are toiling. They do not have a regular job. They have to work without any time limit. They do not have medical facilities, insurance cover, housing facilities and even the accident insurance cover. They do not have death benefits either. They do not have fixed minimum wages. They are not paid equally. Women workers are discriminated against men. They do not have facilities to have education. There children also do not get a social security. They do not have creches or medical facilities. There is nobody to take care of this unorganised labour force and so naturally they find themselves an exploited lot exploited in all possible ways. All these years we have all been seeing and reading about their plight and only now we have come forward to legislate an Act that would give them a much needed a social security. As we give legal protection after a very long time we must take care to ensure, encompassing all the welfare measures they look forward to. Hence I would request the Government to take note of the lacunae pointed out by the members. I would like to suggest that you may reconsider passing this Bill if need be so that we can pass a comprehensive and meaningful a Bill.

Apart from the responsibility to ensure the welfare measures meant for the construction workers, the State Governments may also be given more of administrative and financial powers. Instead of collecting 1% cess based on the total expenditure you may collect 2% cess on the estimated cost of constructing a building. The local administration may be involved in collecting the cess money from the builders. I would like to request you to consider again the question of paying all this money into the Consolidated Fund of India. If the money is with the local Governments they may be able to help the needy construction workers effectively with immediacy. You can entrust the responsibility of collecting the cess with the local administration as and when the builders get approval for their building plans from the local bodies. Now we find all the District Head Quarters linked to the capital through computer network. So there is no need to claim that the cess collection needs to be a centralised one. I am afraid the beauracrats are thinking and advising the Government in the same old fashion. So I request the Government to consider this.

At the outset the very early lines of this Bill raises a justifiable question in our minds whether this Bill seeks to protect the interests of all the construction workers. It is stated that the Act applies to establishments which employ 50 or more building workers in any building or other construction workers. It also says that Identity Cards would be distributed to such of the construction workers who have worked for 90 days or more. Now we find stringent action against those who violate the Factory Act and other Labour Welfare Acts. The proposed Act for the welfare of the construction workers may also have to deal with the violators. So this Act should have teeth to deal with such people who deny the legal rights provided to the construction workers. Some builders may show account that they had employed only 40 or 49 workers in order to escape from the ambit of this Bill. I may request the Government to find out the possibility of bringing down this number to 5 or 10 so that more number of construction workers could get the benefits of this Act

It is noticed that the exising law and scheme meant for the construction workers in Tamil Nadu and Kerala are much better than the legislation the Union Government contemplates now. I would like to point out here the pioneering social welfare schemes that are being introduced and implemented in Tamil Nadu. Hon'ble Chief Minister of Tamil Nadu Shri M. Karunanidhi is setting a trend and showing the path to any aspiring Government that would go for legislating welfare measures.

I am afraid the legislation of this Act might result in collecting the cess from the builders and workers and just remain at that. The benefits intended to reach the construction workers should go to them fully. There

should not be any scope for any kind of apprehensive in this regard. I wish Hon'ble Minister allay these fears in his reply to this debate.

We should ensure that there is no child labour among the construction workers. We must ensure compulsory registry containing the details of all the construction workers. We may regulate the employment through Tripartite Construction Labour Boards. As part of social welfare measueres these workers must get medical, housing, insurance cover facilities. During monsoon season when it would be hard to earn their bread they should be given subsistance allowances. Government must take all possible steps to give the benefits of all the social welfare measures to thesse hapless workers in this unorganised sector so far left to fend for themselves without anybody to take care of them.

The aim and objectives of this laudable Bill should reach the construction workers and their families. I fervently hope that the Government would take all possible steps. Appreciating the noble intention of the Government I support the Bill and conclude my speech. Thank You.

SHRI HANNAN MOLLAH (Uluberia) : Mr. Deputy-Speaker, Sir, I rise to speak on these two pieces of legislation brought before this House which should have been brought long ago. After 50 years of Independence, the largest number of working class, just next to the agricultural workers, are languishing for several decades to have their rights legalised. But unfortunately, those people remained outside the ambit of our legal protection. Even three decades before, in the Tripartite Conference of the Ministry of Labour, it was first of all accepted that such an Act was necessary. Then, again 30 years passed but that legislation could not be passed. About one crore construction workers are there in our country who have no protection, welfare measures and justice in their working place and amenities for discharging their service. They are building the nation through their construction work but we failed to recognise their services and give them a comprehensive legislation. Though belated, the Bill has been brought here.

Sir, you know that this Bill was brought through Ordinances. Before that, there were so many Tripartite and Bipartite Conferences and on the basis of those Conferences, recommendations were made and ultimately, the earlier Government drafted this Bill. The present Bill is almost the same as it was drafted by the last Government and we had lot of differences on several projects.

You many also know that the Construction Labour Movement and the National Campaign Committee fought for their rights and suggested certain measures to be included in this comprehensive Act but unfortunately, those have not been accepted. Inspite of repeated discussions, the main points put forward by the National Compaign Committee headed by Justice Krishna Iyer had not been accepted. Yesterday, our former hon. Minister made some good points. I accept those points. We are fighting for those points and when he was a Minister, we had brought all those points before him but he could not incorporate them in the Bill.

Now, unfortunately or fortunately, he is not a Minister and he is speaking the truth...*(Interruptions)*...So, because of that, I have moved the Motion for sending this Bill to a Joing Select Committee.

If we could send it to the Joint Select Committee they could discuss it and the Committee could prepare a comprehensive report. After consulting the concerned authorities, they could prepare a comprehensive Bill. Our opinion is that this is not a comprehensive Bill.

Sir, first, the Petitions Committee took up this matter. I was a member of that Petitions Committee. We discussed the matter with all those organisations who represent the construction labourers. After getting their opinion, we made certain suggestions. But those suggestions of the Petitions Committee were not complied with. Again, on the basis of that, I also moved a Private Members' Bill in this House. There were wide ranging discussions in Calcutta, Durgapur, Hyderabad and in various other parts of the country. The construction labourers' organisations also discussed this Bill. They recommended that the main thrust of the Bill should be incorporated in the Government Bill. But unfortunately, those points have not been accepted.

Sir, I would like to draw the attention of the House to the various lacunae that exist in this Bill. It would be the best if the Government decides to accept the suggestion of referring this Bill to the Joint Select Committee. But if the Government have some other difficulties and want to pass this Bill through, then at least the lacunae in the Bill, about which I want to mention, should be taken care of and Government amendments to this effect should be moved on those lines before passing this Bill in this House.

SHRI BASUDEB ACHARIA (Bankura) : Your amendments could also be accepted.

SHRI HANNAN MOLLAH : I have submitted my mendments and we would see at the time when they are taken up.

Sir, one of the major lacunae in the Bill and also one of the main demands of the constructions workers is that there should be a proper authority for registration and administration of the construction labourers. A Construction Labour Boards should be formed for this purpose. That Board should be at the national and State level and it should also be extended upto the district level. The Board could register the construction labourers. It should be formed on the pattern of the Dock Labour Board. This is the main demand of the construction labourers. But this demand has not been accepted. I would like to request the Government that

the so called Welfare Board should serve the purpose of the construction labourers in a better way.

Secondly, whatever has been provided in the Bill regarding registration - is not acceptable. If this clause in the Bill is accepted, 75 per cent of the workers would be left out and only 25 per cent of the construction labourers would be registered. It is because most of the workers work under small contractors. I have also given my amendments in this regard saying that all the one core construction workers should be borough under the ambit of this Bill. Under the present clause, only 25 lakh construction workers would be included and 75 lakh would be left out from the benefits of this Bill. That would be a hoax and would not serve the purpose. So, I would like to request that any number of construction workers should be registered and there should not be any bar, such as 50 workers.

It has been said that unless a worker has worked for minimum there months in a particular establishment, his name will not be registered. I would say that this is an eliminating clauses as this eliminates the workers from getting any benefit out of this Act. If such eliminating clauses are there, I am afraid we will not be able to register many workers. It has been said that the workers would cease to be called as construction workers if in one year they have not worked for a minimum period of 90 days. So, there are a number of eliminating clauses in this Bill and if they are retained, it will not be in the interest of the construction workers. I would, therefore, say that this Bill should not be passed as it is.

There is another clause which says, a workers would cease to be called the construction workers and would not remain the beneficiary if he fails to pay his contribution for one year. A poor workers may have to go to another district in search of work. If he fails to pay his contribution he will cease to be a construction worker. If we allow this to happen, I doubt that even 25 lakhs workers, that are there at the present moment, will not be there in the workers' list. One-fourth of the workers only may get the benefit out of his Bills and another three-fourth of the workers will not get any benefit. This, I think, is the major flaw of this Bill and this should be removed.

I would suggest that a worker may be registered if he works under a person who is constructing his own residence. A big house under construction employs a large number of workers. People are spending about Rs.10 lakhs to Rs.15 lakh on construction. If this type of exemption is given, it will reduce the number of the construction workers who can take the benefit out of this Bill. I would request the Minister that the list of beneficiaries should cover the entire construction labour as without that this will not be in the interest of the construction labour. In this Bill, only a partial benefit is accorded to construction workers.

I would suggest that there should be some welfare scheme for the workers and that welfare scheme should be a part of the Construction Labour Act, otherwise the intended benefit would not go to them. The workers have got a number of problems. There are economic problems, education problems, accommodation problem, drinking water problem, medial benefit problem and a number of other problems. I would suggest that a comprehensive clause should be added in this Bill spelling out all these benefits so that a comprehensive welfare scheme—becomes a part of the Bill. It should not be left in the hands of the bureaucrats - who may say that it should be done as per the rules - but it should be made statutory. I, therefore, strongly demand that a comprehensive welfare scheme should become a part of this Bill. I request that this should be accepted, as without this, it will not serve the poor people.

Now, I will talk about the cess. An employer is a person who employs 50 workers and above. Those who are constructing personal houses are not contributing to the Cess Bill. There are provisions to exempt these people. In our country we have developed such a culture that if a loophole is there, everybody will take advantage of that loophole and thereby cheat the poor people. I think, if this clause is accepted, the construction workers will not get any benefit.

This exemption closed should not be there. The builders should also contribute to the fund. This collection should directly go to the welfare fund. It should not go to the 'Consolidated Fund of India in which case it will be lost and will to reach the people for whom it is collected.

I have been working in this fields for the last fifteen years. We have built up this movement and have been fighting for these people all these years. When at last the Bill has come, it has come with a lot of loopholes in it, it is not comprehensive Bill.

Regarding contribution to the welfare fund, why should a constructron workers contribute? We all know that no surcharge is collected from *beedi* workers, dolomite workers, mica mine workers, limestone workers, chrome mine workers, etc. None of these workers contribute for any welfare fund. why should only the construction workers contribute? I do not know if the IAS officers and other officers contribute for their welfare funds but why should these poor people be forced to contribute? This is one of the major lacunae. Instead of helping the workers, the Bill will impose a burden on them. Therefore, Clause 16 of the Bill should also be suitable changed.

The clause relating to pension in the Bill virtually results in denial of pension to a construction workers. The condition laid down is, if a workers does not continuously work for a period of five years immediately before he attains 60 years of Age, he will not get pension. To be eligible for pension a worker must continuously work from the age of 55 years to 60 year in a particular construction company. If he does not work in his last days, he will not be a beneficiary of

pension. This clause is out and out a farce and it should be deleted. Any worker who is registered as a construction labourer and who attains the age of 60 years, should be covered by the provision of pension. This type of eliminating clauses will not help the construction worker in true sense.

I have certain objections regarding cess also. In the Bill, a cess of only one per cent has been proposed to be imposed which will result in a very meager fund. a minimum cess of ?? per cent should be imposed to create a sezeable fund which can serve the interests of construction workers.

These are the major lacunae that we have seen in this Bill. I request that either the Government should agree to all these major points which the construction labour unions have been fighting for and incorporate them in the Bill. or this Bill should be sent to a Select Committee so that a comprehensive Bill is brought into the House after accepting these suggestions.

The agricultural workers Bill is pending. Though all previous Governments promised that it will be brought before the House it could not see the light of the day. I hope. that bill will come soon. I also hope that when it is brought. it would not be handicapped by such lacunae. I request the hon. Minister to accept all these major amendments that are yet to be moved.

SHRI P UPENDRA (Vijayawada) : Do not suggest referring it to a Selected Committee. in which case it will take two years to come back. Ask the Minister to call a meeting

SHRI HANNAN MOLLAH : Within a limited time. you can discuss and you can incorporate the suggestions of those responsible people and unions so that the Bill would really become a comprehensive Bill.

Sir. with these words. I hope that the hon. Minister will take note of the sentiments of the whole country. of the whole movement of the construction labourers and that try to come up with a real comprehensive Bill in the interests of the second larget segment of the poorest working class of their country.

SHRI A.C. JOS : I am thankful to you for calling my name.

At the outset itself. may I congratulate the hon. Minister for having moved the twin Bills. one to regulate the service conditions and welfare measures of the workers and the other to levy for collection for the conduct of the welfare measures.

If you believe in horoscope and I am slightly afraid of, the construction workers Bills were always fatal or most of them are stillborn. It appears to me that it started in 1975. but Sight years back at last the Petitions Committee of this House had very elaborately considered the aspects and the problems of the construction workers. In the meanwhile, a Bill was introduced in the Rajya Sabha. Having noted that the Petitions Committee of this House was discussing the same. the Rajya Sabha reverted it to the Lok Sabha. But that also met with the same fare.

Again, in 1995. an ordinance was passed and after that much water has flown down. Successive Labour Ministers, not less than a person the hon. Minister of Railways. Shri Ram Vilas Paswan. then Shri S. Venkataswamy and our venerable hon. Speaker. all have touched it and tried to do it but non of them could succeed. Somehow or other. it receded away from the hand. This is the fourth Ordinace that is being put in the form of a Bill in this House. I think. that it is for the first time in the history of India. that one and the same Ordinance has been successfully respromulgated in the same year and I hope that is why yesterday I objected my learned friend Shri Geoge Fernandes when he mentioned that there is some technical problem. I do believe that there is some technical problem but why I conceded it is that somehow or other let this came in for discussion.

If you look in the history of the Statute Book. in the last 50 years after Independence. there is no dearth of any labour laws. We can be rightly proud of having a plethora of labour laws. Right from 1947 right from the Industrial Disputes Act a number of labour laws are there. regulating service conditions. giving bonus. giving gratuity and terminal benefits. maternity and like that. Even though the subject 'labour' is in the Concurrent List. every Government as well as the Central Government - has enacted enough laws. But very interestingly towards whom are all these laws are directed? The are all directed towards very highly paid pilots and very heavily paid bank employees. Industrial workers. and for every organised worker who form ten per cent of the working classes of the country. for whom we have thousand laws. For 10 per cent. we have got everything but unfortunately 80 per cent of our population. that is. 90 per cent of the working force is in the agriculture and construction sector.

15.00 hrs.

Sir. even today. except perhaps the Kerala Government and one or two other State Governments. all the State Governments. in agricultural sector. are still left untouched. Agricultural labourers are still indisciplined. More so. the second largets sector. that is the construction sector is still orphan. When we are celebrating the golden jublee of our Independence. this year only we have been able to bring in a legislation of that sort for construction workers.

I do not call it a legislation for the construction workers. In some note I happend to read that the number of construction workers available in this country is 8.7 million. It is not at all correct. How can it be? If you conceive, that construction labour is the second largest section of our workforce. it can never be 8.7 million. Our country has a census about lions, our country knows how many tigers are there, our country knows how

many elephants are there. our country has got census about everything but I am sorry to state that till date the Labour Department does not have a census of construction labourers in the country.

15.01 hrs.

(Shri P.M. Sayeed *in the Chair*)

According to the Planning Commission. the construction labourers will come to about 50 million to 60 million. Construction industry is the biggest industry of this country. 48 per cent of the total allocation of the Eighth Plan has been earmarked for construction activities and 48 per cent of the Eighth Plan means a huge amount. Perhaps even agricultural sector may not be investing that much of money. but the maximum amount of money invested in a single industry or single activity. if you take. is in the construction indsutry and about that there are no statistics.

So. my humble submission. before this House. is that the hon. Minister should give instructions that there should be a census about construction workers. They are also human beings. If I may respect it. if you have got census for pet dogs and census for animals. what is your census regarding construction workers?

According to me. 20.7 million workers are directly involved in the construction industry. Are those people who cut woods. not part of construction indsutry? Are those people who do granite work. not part of the construction industry? So if you take everyone together the second major part of the rural population consisting of about 60 million to 70 million people are construction workers. Naturally. when we think about these things priority should have been given to such Bills.

Even today. I am sorry to say that those who talk about labour. including the central trade union leaders. have not done their best for the construction workers. Pilots bring the planes to a standstill in which the elites travel and the bank employees can stop the banking activities in which the elities alone transact. they have been given protection but there is not protection for construction workers.

So. I am again submitting that this Bill be given priority and should be passed. I do not say that this Bill is above everything but because something will have to come into the Statute Book about construction work that is why I am supporting this Bill.

SHRI N.K. PREMACHANDRAN (Quilon): What would be the fate of Kerala if this Bill is passed? ...*(Interruptions)*

SHRI A.C. JOS: I am coming to that. Kerala. like in any other field is the forerunner in this field also. Though Tamil Nadu had passed a Bill in 1984. they did or not implement it till 1994. They have got manual labourers' Act. They have implemented it only in 1994. But. luckily. Sir. the Kerala State Legislature passed a Bill in 1989 and implemented it forwith in 1989 itself.

The defect of the present Bill is that though the definition is all pervading. even now the definition does not contain what are all categories that are included. In Kerala. we have a schedule. In that schedule we have included 26 types of workers. I will just list them without taking much time of the House. They are: masons; gravel-bankers; masons who work with local bricks; brick manufacturing workers; carpenters; blacksmiths; fitters; plumbers; painters; saw mill workers; bar-benders; helpers in the construction workers who collect sand for construction industry; mosaic workers; tunnel workers; grantite workers; electricians; concerete workers; workers who are engaged in thatching roofs of small houses; marble workers; road workers; any other workers connected with the construction work; lime workers; welders connected with the construction industry; and even anti-sea erosion workers.

That is why. I have submitted that this Bill should include a very major section of it. My submission is that. before going into the legalities of it. the hon. Minister should include a clause in this Bill wherein the State Government should be given enough power to include any type of workers connected with the construction work.

I have mentioned about the legality. Let me ask one question. why should the government call it as 'Building and other Construction Workers Bill'? I do not understand this. Simply calling it as 'Construction Workers Bill' will do.

If building is a construction work. then it includes construction workers. Firstly. the nomenclature of this Bill should be changed. it should be rechristened as 'Construction Workers Bill'. The hon. Minister's name will go down in the history as a person who has passed the Bill for the entire construction workers.

If I may be permitted to say. bureaucracy is dangling in the words 'Building and other Construction workers'. They are still not away from it. If there is a worker engaged in the construction of a dam. he is also called a construction workers. If a worker is engaged in the construction of a building. he is also a construction worker. Even if a worker in engaged in the construction of a small building. he is also called a construction worker. Then. what is the meaning of calling it as 'Building and Construction Workers Bill'? I do not find any logic in it. I do not find any implication in it. That is why. we did the same thing in Kerala and it was named as 'Construction Workers Bill'.

Secondly. I have mentioned about the definition. I say that if this is passed the State Government should be given enough leeway to include any kind of workers because India is a diverse country and many type of works are there in different States. What is applicable to Kerala may not be applicable to Bihar. So. the State Governments should be permitted to include as many categories of workers into the Act as possible.

Here, as my learned friend has suggested, thee is a very serious problem in this Bill. Is it legally possible? As per the present Bill, the money has to be collected and has to be put into the Consolidated Fund of India. What will happen to the Kerala State Act? The Kerala Welfare act is being implemented very well. Sir, you will be surprised to know, you will be amazed to know that within five years, the Kerala State construction Welfare Board has got a sum of Rs 35 crore as its corpus.

A day will come within the next five years, when the workers in Kerala need not pay and need not collected paying from anybody. It will touch Rs.100 crore mark and with the interest, Kerala, the workers can be easily given pension and other benefits.

Apart from boasting about it, as this Act provides that the money should go to the coffers of the Consolidated Fund of India, my question is, then what will we do? The money that has been collected now and is going to be collected in Kerala and Tamil Nadu, where the Board is functioning smoothly and with everybody's appreciation, may also have to go to the Consolidated Fund of India?

I suggest a compromise. I do not mind saying that. Why I am saying is that a clause should be added that whichever State Government wants that the money to be collected, earmarked to the Board, that need not go to the coffers of the consolidated Funds of India. It is a very complex process. You collect the money from the far-most southern tip of the country, send it to the Consolidated Fund of India and again, it sends back the money.

I understand that the Department of Income-tax is doing it. But it is not like that. The construction activity which takes place in every corner and in every village. So if that money goes to the consolidated Fund of India - it is going to be a very huge amount - and that fund is to be earmarked on what basis? It is not said here on what basis it is done. Now they say, after money is brought to the Consolidation Fund of India, the Act says, 'the Boards will assemble and some mechanism will be worked out by which the money will be distributed.' What is the basis? For income-tax, there is a basis. For eixcise duty, there is a basis. The Finance Commission will come in every five years and it will earmark it that the hon. Minister would find. Then what is the basis of distribution?

Suppose the construction activity is maximum in my State or for that matter, the construction work is maximum in the city of Mumbai how do you distribute it? There is no formulate at present. Therefore, it will come to a grinding held.

After having collected it, that money can not do any good to the construction workers. So my submission is that the very idea of collecting the money and putting it to the Consolidated Fund of India - if I may put it so - will not be practicable at all. That is impossible and if I may say so, it may even be illegal also. you may have to test it and it will attract a flood of cases. In a number of cases where we may have to fight for this purpose because the contractors are involved in it.

Now my second suggestion is this. I do not know whether any other technicality is the regarding other States. If you think so, you make a provision by which you can say that whichever State wants to collect it, that can collect it because labour is a Concurrent subject, you have enough freedom and you have enough liberty and leeway in it.

Sir, another difficulty is that once the money is sent to the Consolidated Funds of India, it is very difficult to come out. So instead of that, I have moved an amendment that this money should go to the Welfare Board. The Welfare Board will have enough checks and balances. I have suggested an amendment that instead of it coming under the audit of the Auditor and Comptroller General, you can have an independent audit for the Board which we are doing it.

So, as far as possible, I would request the hon. Minister to take it away from the clutches of the bureaucracy and from the clutches of the Government. I have nothing against the bureaucracy but I am saying it because once it goes to the Consolidated Funds of India, the Government may have its own financial difficulties and with that difficulty, the money that has been collected for the purpose of construction workers gets held up there. What will you do? So the money that you are collecting, the cess that you are collecting, should go to the Welfare Board, which according to me, should be autonomous, should be free from the clutches of the Government. That body will manage and administer that district.

Sir, my friend, Shri Hannan Mollah had mentioned certain things regarding the welfare meausres. My suggestion for that is that if you give freedom to the Welfare Board of the States concerned that Welfare Board can formulate its own welfare measures depending on the conditions obtaining in each State. In my State, Kerala, we need not have insurance because insurance has got its own inherent defects. So, we have not opted for insurance. If a particular State wants accident insurance, it can do it.

So, my third suggestion is that the Welfare Board should be instituted in which two Members from this august House can be appointed in the Central Advisory Board either by election or by nomination. I leave that option to the hon. Minister. So, also the State Government or the State legislatures can have two representatives in the concerned Board...*(Interruptions)* Why should you make the registration of the employer, who employs 50 or more workers, compulsory? We are not interested in the registration of the employer at all.

Sir, in Kerala, we permitted individual workers to get themselves registered in a taluk or in the district. My friend, Shri Hannan Mollah has also mentioned about it.

Sir, the Indian National Building and Construction Workers Congress in their memorandum to the hon. Minister have also written that under clauses 11 and 17, the certificate from the registered trade union or central union can be given. As far as an individual workers is concerned, he can renew his registration with whatever conditions you have stipulated like 90 days, etc. He can be a member of the welfare fund.

Now, it is mentioned that a contractor who employs 50 or more workers can be registered. My suggestion is that an individual worker may be permitted to register. If at all you are interested in the contractor to be registered, the employer to be registered also, then the limit should be brought down because in order to circumvent the Bill, in order to get out of the Bill, they may register 20 or 30 people different times. Instead of that, you bring down the number to 15. Any person who employs more than 15 persons will have to register...*(Interruptions)* The number can be ten also. I agree with you.

Lastly, in the Bill it is mentioned that the cess shall not exceed one per cent. It is a very dangerous clause. It means that it can be 0.5 per cent it can be 0.25 per cent. That is very dangerours.

I wanted to move an amendment that not less than one per cent should be there. Then the Office of the Legislative Wings said that it need President's concurrence. My colleagues have already mentioned about it. I am contented that it should be definitely one per cent.

MR. CHAIRMAN : Pleased conclude.

SHRI A.C. JOS : Yes, Sir.

Another thing is that no exemption clause is neccessarery. If there is a clause of exemption, then there may be a lot of pressures and there can be exceptions. So, you hve to do away with the examption, otherwise the cess of one per cent will be of no use. By it, you take away teeth from this Bill and the Bill will be of no use.

Sir, I am happy that I am making my maiden speech in this august House about the construction workers for whom I have been working for the past two decades. In any case I am happy that it is coming. Till date all the ordinances and Bills were still-born. Even this Bill is a premature baby, which came out in the seventh month without nails or hair. It is still premature. Luckily it has got life...*(Interruptions)*

MR. CHAIRMAN : Please do not disturb. He is making his maiden speech.

SHRI A.C. JOS : Sir, I am supporting it because I want to put this premature baby in the incubator. I do not want to kill it. It is not still-born. It is only a premature baby with life. We have to keep it in the incubator and give it enough nursing medicine and food and strengthen it. After that it can be made use of. I do not want to kill it, so I support it.

SHRI K.V. SURENDRA NATH (Trivandrum) : Mr. Chairman, Sir, I am very happy that since I come to the Lok Sabha the first time that I opened my mouth is in support of this Bill which concerns the daily life and fate a section of our people considered. If I may use the often populate phrase - "wretched of the earth" coined by Herbert Mercuse. The real 'wretched of earth' is in India. It is a different you, may quarrel if there number is eight million or twenty million. Whatever be the number, they are the most wretched of the working class of India, close to the agricultural labour in the villages than the urban industrial workers. A large part of them consists of women and a rather considerable part consists of pre-adolescent workers. I call them children but they are pre-adolescent workers but are children. They are always scattered, shifting from one work place to another and not knowing where to go the next day. There are not at all integrated as the mill workers or any other industrial workers are. All these are the peculiarities which make them, in spite of the peculiarities, a section of our work force that should have been given greatest priority the first priority when legislation is contemplated. That has not been done.

I think this is the eighth attempt. In 1988 we were thinking of legislation. In 1982 itself Tamil Nadu had passed a legislation of its own. From that day they targeted others the workers of the building industry which covered a large portion of the building industry. That was in 1982. It is 14 year now. In 1989, without waiting for the Central Bill to come, Kerala enacted a legislation and brought it into force. It should have been done here long ago. Even now, in spite of all the changes that have come, the name used will leave a very sour taste in the mouth. It says : 'building and construction workers'. What does it mean? why should you call the babdy by its real name? I do not understand it. That is one thing.

There has been a big boom in the construction industry now. As we have already seen a big change is coming over in this industry. It is not now the common man who takes loan, say of one lakh of rupees from somewhere and puts up a residential house. That is a very small part of the industry. Greater an grater part of this construction activity has already gone into the hands of big-money people.

We have a company in Kerala. I do not want to mention its name. It can, now, through its activities in connection with power, irrigation and other sectors, amassed enough to buy the whole State if it wants. The Kerala people know the name of the company. Such big sharks have become prominent. The industry is their now. It is not just the residential house building sector alone. Even in a backward city like Trivandrum which I represent what happens is that multi-storeyed skyscraper residential apartments have stolen the show and are coming up in a big way.

Another thing is that smaller house measuring about 1000 sq. ft. are going out of fashion and out of popularity. The big multi-storeyed building are coming up. The big projects like dams, irrigation workers electricity projects and various other projects - mainly owned by Government institutions, departments and corporations - are playing predominant part.

There is a big talk going on whether it is possible to have such a legislation in an industry which is one hundred per cent unorganised. True now, it is unorganised. We have experienced two things in the South. One of them is the plight of handling workers at docks and Cochin Port. Had such a legislation come in time, it would have been more beneficial to them also. Some wrangling went on for some time and finally we had a piece of legislation. The other was a very difficult thing which generated a lot of controversy regarding head load workers. They are spread throughout the State. We tried to organise it in some fashion by the use of legislation which finally we had pased. It has served quite a good purpose and it has not been very bad. There was not much opposition to that legislation which was found helpful to the workers.

So far as legislation here is concerned, I would say that there is a big boom in construction activities, even in a poor State like Kerala, a greatest economic venture is in building constrution. Therefore, unless we give protective shield to the workers in this sector, our commitment to the working class will not rally be true.

In this Bill, it is mentioned that a worker should have worked minimum work for 90 days in a year. What it means is such work may not be continuous. Secondly, the minimum number of workers with a contractor should be 50 for registration. Taking all these things together what is the percentage of construction workers that is going to be converted? I do not think that if you retain these two conditions, it would be impossible to cover more than five per cent of the workers and 95 per cent of the workers would remain out of its purview. The similar is the contractor, it is easier for him to say that he did not employ even 10 persons. Who is going to find out the truth? There is no possibility of finding out. These two condition of work for 90 days a minimum 50 persons in the work force make it impossible to give it not only considerable coverage but leave out the larger part of construction workers in this sector.

So, these two things have to be undone. Otherwise there is no use wasting the precious time of the Lok Sabha or any other legislative organ. That is the main point to which I would like to draw the attention of the House.

SHRI NIRMAL KANTI CHATTERJEE (Dumdum) : Mr. Chairman, Sir, I am on a point of order. The Speaker's name is not being shown in the TV outside. It is mentioned that you are in the Chair, but the speaker's name is not mentioned.

MR. CHAIRMAN : It will be shown.

SHRI K.V. SURENDRA NATH : Sir, the most important thing in respect of legislations like this is the implementation. That is the core issue. Now, what mechanism does this Bill put forth for implementation? It say that there will be an Expert Committee in Delhi. Then, there will be an Advisory Board. They will tender general advice and keep quiet. In the States also there will be Expert Committees and Advisory Boards. Then, do they have any organisation to coordinate the activities conducted under the auspices of the Central Government and the State Governments? do they have any organisation to coordinate the activities at the district level and at the State level? I do not think that they have gone into this question at all.

It is stated that gazetted offices would be nominated for registration at the Centre and in the States. The number of such officers and their qualifications are to be decided by the rule framing body. Beyond that, how do they coordinate between the Centre and the States? The only thing which is stated here is that the Central Government would nominate the Chairmen for the State Boards. The Central Government would nominate Chairman for the Kerala Board, Tamil Nadu Board and all the 25 State Boards.

It is stated that powers would be conferred on inspectors who would be appointed under this piece of legislation. But who will prepare charge and take them to the Metropolitan magistrate or he First Class Magistrate or any judge of that level? Who will do this? This is not mentioned here. All the good things have been written here. But where are the teeth? Without the teeth, how will you implement these provisions?

Sir, I was thinking as to why they cannot involve she Panchayati Raj institutions in the welfare are the betterment of conditions of millions of workers who call themselves as 'construction workers'? Why can you not involve the district panchayats, block panchayats and the village panchayats? They could be involved in the implementation. So, some mechanism should be found out for implementation. The best thing would be to have a tripartite bodies. The Board is given the name as the 'Welfare Board' as if it is concerned only with welfare activities.

They talk about pension but nobody knows what kind of pension they talking about. They say certain other things too like provident fund and life insurance. They are talking about insurance which is already in force for everybody. Even I can get myself insured under the Group Insurance Scheme. That is already in force for money. Excepting that, there is not real maintainable thing which is now contemplated by this legislation. But still it calls itself Welfare Bill. There is not much welfare activity.

Then, there is a provision for a Welfare Board, I think, it is in clause 21. The Welfare Board will decide

the hours of work, payment of wages, etc. All these things have been left to the State Boards and Welfare Boards which are contemplated under this Bill. It is a self-contradictory thing. So, if these things have to be successfully enforced, the only way which we - the people like me and trade union leaders - could think of would be having a tripartile mechanism. You could have tripertite mechanism through this Bill or through some other means. This tripartite mechanism should include labour, employers and representatives of the Central Government or the State Governments. If such a tripartite mechanism comes into force, then the aims and objectives of this legislation could be achieved only partially. Otherwise, it would just remain a pious wish. That is the only thing that is going to happen, if we pass this Bill in this form without any change.

Then, what could be done about the children of 10 to 12 years age?

They are not yet adolescent. If you do not do something for them, they may be out of work an starvs. If you do not do something, the World Trade Organisation will catch us by the collar of our shirt. It is a very difficult choice to make. But the fact remains that large number of children are involved in building construction work. Even in Delhi, when I open my window in the early monring, I see building construction workers of 10 years age sleeping tin the open in front of our Kerala House. So, something has to be done about it.

Then, as the previous speaker, my hon. friend, Shri Jos said, why should we have a clause in the legislation saying that Government would have powers to give extension to certain employers? It is a very difficult thing. Not only difficult, but it is aver dangerours to have a clause like this.

As regards the nomination of Chairmen of the State Boards by the Cenral Government, I do not think it is a very desirable thing to do so. They can put up a panel and the Centre could choose from that panel. Or they can get the prior approval from the Centre in deciding who the chariman of the Board should be. That would suffice.

These are the main things I wanted to bring to the attention of the House. With these words, I conclude.

SHRI ANNASAHIB M.K. PATIL (Erandol) : Thank you very much, Mr. Chairman, Sir.

The concerned Bill has been brought in haste, though it may be very good for the workers who are involved in building and construction work. Why I have pointed out this is because there are so many lacunae in it. As far as the work is concerned, the workers who are on the work have not been taken care of properly. The workers deal with very massive and heavy materials such as tone, brick steel and cement. There is no adequate provision in the Bill to protect or to take care of the poor workers who are involved in this type of work. Moreover, these workes, as the hon. Member who spoke earlier has very clearly mentioned that the workers have no age limit. You will find that many workers who are working in the construction work are below 18 years of age. Therefore, this Bill would not be applicable to them and, moreover, they would be certainly by passed in this Bill. There will be no benefit as welfare for these workers who are working on the job.

Sir, I also feel that the cess that has been recommended in the Bill is not to that extent by which they would be benefited. I feel that it should be enchanced from one per cent to two per cent. As mentioned earlier, the money should not go to the Consolidated Fund of India. This matter has to be definitely coordinated with the welfare bodies both at the State level and at the Central level. The welfare body at the State must have more say on that account because the money that will be collected by them by way of cees would certainly be not of he same quantum in every State. Therefore, the welfare board at the State has to be given wieghtage according to the amount that has been collected.

Sir, there are no stipulations or rules framed for workers working in the constrution. There is no provision for taking to the children of the workers. They should get the benefit out out of this Bill by making a provision for heir education, health and other welfare activities. In clause No. 35, it has been mentioned that where the number of Females involved in the building work is 50, they should be provided with all the emenities and to make adequate arrangements for giving shelter to their children and infants.

But to my knowledge and experience, nothing has been done in this regard where such type of workers. Therefore, this Bill, under which the various clauses have been mentioned, has not very specifically mentioning about the provisions or amenities that are required by every worker, both male and female, such as drinking water, housing, electricity and other amenities. Moreover, this Bill does not protect the life of the workers to the maximum extent. When they work so hard with so many other categories of materials. Their lives should be certainly be protected as it was also mentioned by various other Members, there should be some shelter provided to them for working at places of greater heights with different kinds of materials like steel and others.

With all these few remarks, I conclude my speech. I hope, you will appreciate the same.

SHRI CHITTA BASU (Barasat) : Sir, I want to be very brief because of the fact that earlier speakers have already dealt with various aspects of the Bill.

The Bill has come too late. Even if it has come too late. It has given too little, pericularly in respect of the

construction worker of our coutry. Some members have mentioned the number as 22 crore and some others have mentioned it something less than that. But I say, it is the teeming millions. And if we are to do any justice to the deprived, to the under-privileged, the first target necessarily has to be these construction workers. If the Government is committed to look after the interests of the most deprived, the neglected an the lowest of the low of our social atrats, then the target in these construction workers. At least the Government has up-till now taken congnisance of their presence in the society as also their contribution to the human civilization of the world.

This Bill suffers from a basic infirmity. And this infirmity is neither like a fish nor like a Chicken; it is neither for the workers not for the employers. This is because the basic philosophy of trade unionism has been altogether rejected in this. The basic philosophy of rade unionism if tripartism. I have got an experience of years if not of decades in the trade unionism. I can say that unless there is a tripartite mechanism, it has got no basis at all. It has provided for an Advisory Committee. Who will appoint that adviosry committee? The Central Government at the national level and the State Government at the State level, all are nominated; there is no element of election. There is no element of representation either from the workers' side or from the employer' side and whatever representation they give will be decided by the Government either at the State level or at the National level. Representation is a basic element in Trade Union Democracy and it should be there in order to protect, preserve and expand the TU right. But that aspect is altogether absent in the whole perception of the Bill.

There is no conciliation machinery. Workers have their own interest; employers have got their won interest. There would certainly be conflict of interests and the is another basic perception of the trade unionism. For that every law relating to the interest of the workers naturally provides for some kind of mechenism for the redressal of grievances or some kind of mechanism for the conciliation of the conflicts arising between the two classes. Here there is no provision of conciliation machiery. If you call it a welfare Bill, these welfare measures will have to be taken by the Board. But that is not very much present here. In future some State Advisory Board will decide upon what kind of welfare measures that State Board will prescribe. There is not mention about that Welfare Board expect for the expression of what I will say pious wish. That is also not there...*(Interruptions)*

I am very happy that you have really understood me. But this is what it is. It is neither fish nor chicken. It is neither vegetarian nor non-vegetarian.

I cannot reject the Bill because that will be injustice. It is after all a Bill concerning the most teeming millions of our society which is going to become a part of the statute. It will have a place in the statute books. That is the only pleasure I can derive. For that this House or the Minister can claim credit and I am prepared to concede that credit to him. After all construction workers will also be mentioned in the statutes of the country. Therefore it requires to be further modified; it requires to be further enriched; it requires to be further corrected; infirmities and weaknesses removed; and it requires to be further strengthened.

As regards the negative aspects, that is exemption, it takes some of the teeth out of he Bill. As regards the question of depositing the cess to the Consolidated Fund of India, it is an example of the concentration of powers in the hands of the Centre. It shows scant respect for federation. The State Government will collect it from the poorest of the poor and it is expected that that fund will be spent for the welfare of the workers.

It would be deposited in the Consolidated Fund of India. This House has some control. I do not know how it would be distributed and what the methodology of distribution would be. Not a single farthing can be spent out of he Consolidated Fund of India unless this House approves of its. Thus, it becomes a part of Budgeting. it becomes a process in the passing of the Budget. This is unnecessary and avoidable.

There is the question of collecting cess not exceeding one per cent. What is the rationals for. it? Why is not 1.5 per cent? There might be many other factors: contrators, small contractors and so on. You may have some differentials. But why do you not have it at 1.5 percent or two per cent or three per cent? What is the rationale for that? The hon. Minister should explain if there is any rationale for that. Therefore, I support the perception of the Bill and I support that this Bill should be passed by the House, but it is better that it is further corrected and further improved upon.

I do not mind if the Bill is passed today, but heavens would not fall it it to referred to a Joint Committee and the Joint Committee might be asked to submit its report within a month. There have been many precedents of this nature, where the House refers a particular bill, an Important and an urgent Bill to a Joint Committee with the purpose of Improving upon it, when the principle of the Bill is accepted by the House. I have not heard anybody who has objected to the principle of the Bill. Everybody has appreciated the basic principle of the Bill. But it needs further improvement; it needs further strenthening; it needs the removal of certain weaknesses and infirmities.

Therefore, this Bill might be referred to a Joint Committee with the request to report within a month and the House can adopt it in a rich and better form with necessary modifications. A motion has already been moved for referring this Bill to a Joint Committee.

With that, I conclude, Sir.